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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,924	11/16/2001	Gregory H. Altman	19471-502 (TRI-2)	4778

7590 12/23/2002

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EXAMINER

NAFF, DAVID M

ART UNIT

PAPER NUMBER

1651

DATE MAILED: 12/23/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	10/008924	Applicant(s)	Attman et al
Examiner	Mayfield	Group Art Unit	1651

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

Responsive to communication(s) filed on 11/14/01

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

Claim(s) 1-174 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) \_\_\_\_\_ is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claim(s) 1-174 are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  Interview Summary, PTO-413

Notice of Reference(s) Cited, PTO-892  Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948  Other \_\_\_\_\_

## Office Action Summary

Claims in the application are 1-174.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

5 I. Claims 1-80, 128-137 and 174, drawn to a silk-fiber based matrix having a wire-rope geometry that can be seeded with cells for use in producing a predetermined type of ligament or tendon *ex vivo*, and to bioengineered tissue containing the matrix, classified in class 424, subclass 423.

10 II. Claims 81-127 and 138-173, drawn to a method for producing a predetermined type of ligament or tendon *ex vivo* by seeding cells on a silk-fiber based matrix of cylindrical form, either pre- or post-matrix formation, attaching first and second anchors to opposite ends of the matrix, and culturing the cells, and to bioengineered tissue produced using the method, 15 classified in class 435, subclass 395.

The inventions are distinct, each from the other because:

The silk-fiber based matrix of Group I can be used *in vivo* and can be used in a method other than required by Group II, and the method of Group II produces a ligament, tendon or tissue not required by Group I.

20 Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a 5 non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

10 Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone number is (703) 308-0520. The examiner can normally be reached on Monday-Thursday and every other Friday from about 8:30 AM to about 6:00 PM.

15 If attempts to reach the examiner by telephone are unsuccessful, a message can be left on voice mail.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn, can be reached at telephone number (703) 308-4743.

20 The fax phone number is (703) 872-9306 before final rejection or (703) 872-9307 after final rejection.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

25 DMN  
12/23/02

  
DAVID M. NAFF  
PRIMARY EXAMINER  
ART UNIT 1651